



U.S. Department of Justice

Federal Bureau of Prisons

Metropolitan Detention Center
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December 24, 2014

The Honorable Robert M. Levy
United States Magistrate Judge for the
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Doris Yembe, 14-mj-00403 (EDNY)

Dear Judge Levy:

I write on behalf of the Metropolitan Detention Center in Brooklyn, New York ("MDC Brooklyn") regarding the December 23, 2014 Order issued in the above case¹ pertaining to pre-trial detainee Doris Yembe, Register Number 05176-104 ("Order"). The Order requires MDC Brooklyn to "refrain from strip searching [Ms. Yembe], except where such searches are necessary to maintain the security of the facility."

MDC Brooklyn writes here to communicate its understanding of the Order: given that the Order permits visual searches² "where such searches are necessary to maintain the security of the facility," MDC reads this Order to be consistent with national Bureau of Prisons policy, and the BOP's authority to conduct visual searches of Ms. Yembe.

Under national BOP policy, visual searches are conducted only under limited circumstances: that is, "where there is reasonable belief that contraband may be concealed on the person, or a good opportunity for concealment has occurred. For example, placement in a special housing unit (see 28 CFR § 541, subpart B), leaving the institution, or re-entry into an institution after contact with the public (after a community trip, court transfer, or after a 'contact' visit in a visiting room) is sufficient to justify a visual search." See 28

1 MDC Brooklyn respectfully notes it was not afforded an opportunity to respond to defense counsel's proposed Order prior to its entry, and that Ms. Yembe has not broached this issue with MDC Brooklyn through BOP's Administrative Remedy Program. See 28 C.F.R. § 542.10 *et seq.*

2 BOP's regulations employ the term "visual search" to describe what is commonly referred to as a "strip search."

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CFR § 552.11(b). BOP policy requires that "[t]he visual search shall be made in a manner designed to assure as much privacy to the inmate as practicable," and that "[s]taff of the same sex as the inmate shall make the search, except where circumstances are such that delay would mean the likely loss of contraband." See Id; see also Bureau of Prisons Program Statement 5521.05, Searches of Housing Units, Inmates, and Inmate Work Areas.

Thus, MDC Brooklyn does not arbitrarily or wantonly conduct visual searches of the inmate population: instead, visual searches are conducted only where, pursuant to well-established BOP policy, such searches are necessary to maintain the security of the facility. Accordingly, MDC Brooklyn will continue to conduct visual searches in adherence with national BOP policy, and in accordance with the requirements of the Court's order.

Finally, MDC Brooklyn respectfully submits that on December 5, 2014, Ms. Yembe was seen by a BOP psychiatrist. In light of Ms. Yembe's mental health concerns, MDC Brooklyn staff will continue to closely monitor Ms. Yembe's mental health condition.

Thank you for your time and consideration. Please feel free to contact me at 718-840-4200 if I can be of any assistance.

Sincerely,



Kenneth Bork
Staff Attorney
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Metropolitan Detention Center
Brooklyn, New York

cc: Justin Lerer, Assistant United States Attorney (via email)
Deborah Colson, Ms. Yembe's counsel (via fax 212 257 6453)